



April 28, 2017

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Submitted via FOIAOnline

Re: Freedom of Information Act Request

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, The Protect Democracy Project hereby requests that your office produce within 20 business days the following records (see below for clarity on the types of records sought):

1. Any and all records, including but not limited to emails and memoranda, reflecting, discussing, or otherwise relating to the use of or reliance upon private lawyers in revising the “Waters of the United States Rule” (also known as the Clean Water Rule), *see* 80 Fed. Reg. 37054 (June 29, 2015)), or carrying out the Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule” (Feb. 28, 2017).
2. Any and all records, including but not limited to emails and memoranda, reflecting, discussing, or otherwise relating to the role of EPA attorneys (including the assignment or reassignment of the responsibilities of any attorney or office) in revising the “Waters of the United States Rule” (also known as the Clean Water Rule), *see* 80 Fed. Reg. 37054 (June 29, 2015)), or carrying out the Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule” (Feb. 28, 2017).
3. Any and all records, including but not limited to emails and memoranda, reflecting, discussing, referencing, or otherwise relating to the article authored by Annie Snider entitled “Pruitt allies explore hiring private lawyers to rewrite EPA rule,” published in *Politico* on April 18, 2017.
4. Any and all records, including but not limited to emails and memoranda, reflecting, discussing, or otherwise relating to the role or participation of the

- Water Advocacy Coalition, the American Farm Bureau Federation, the National Mining Association, or the law firm of Hunton & Williams LLP in revising the “Waters of the United States Rule” (also known as the Clean Water Rule), *see* 80 Fed. Reg. 37054 (June 29, 2015)), or carrying out the Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule” (Feb. 28, 2017).
5. Any and all records, including but not limited to emails and memoranda, reflecting, discussing, or otherwise relating to communications with the Executive Office of the President (including but not limited to the Office of the White House Counsel and Office of Management and Budget) concerning the process for and personnel involved in revising the “Waters of the United States Rule” (also known as the Clean Water Rule), *see* 80 Fed. Reg. 37054 (June 29, 2015)), or carrying out the Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule” (Feb. 28, 2017).
 6. Any and all records, including but not limited to emails and memoranda, reflecting, discussing, or otherwise relating to the use or consideration of an Advisory Committee or Special Government Employees (SGEs) in revising the “Waters of the United States Rule” (also known as the Clean Water Rule), *see* 80 Fed. Reg. 37054 (June 29, 2015)), or carrying out the Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule” (Feb. 28, 2017).
 7. Any and all records, including but not limited to emails and memoranda, reflecting, discussing, or otherwise relating to Scott Pruitt or Sarah Greenwalt and concerning revising the “Waters of the United States Rule” (also known as the Clean Water Rule), *see* 80 Fed. Reg. 37054 (June 29, 2015)), or carrying out the Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule” (Feb. 28, 2017).
 8. In addition to the records requested above, we also request records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched, and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

FEE WAIVER

FOIA provides that any fees associated with a request are waived if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not

primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in consort with the organization’s mission to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has no commercial interests.

In addition to satisfying the requirements for a waiver of fees associated with the search and processing of records, The Protect Democracy Project is entitled to a waiver of all fees except “reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). Federal law mandates that fees be limited to document duplication costs for any requester that qualifies as a representative of the news media. *Id.* The Protect Democracy Project operates in the tradition of 501(c)(3) good government organizations that qualify under FOIA as “news media organizations.” Like those organizations, the purpose of The Protect Democracy Project is to “gather information of potential interest to a segment of the public, use its editorial skills to turn the raw materials into distinct work, and distribute that work to an audience.” *Nat’s Sec. Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). We intend to give the public access to documents transmitted via FOIA on our website, www.protectdemocracy.org, and to provide information about and analysis of those documents as appropriate.

RESPONSIVE RECORDS

We ask that all types of records and all record systems be searched to discover records responsive to our request. We seek records in all media and formats. This includes, but is not limited to: agendas, manifests, calendars, schedules, notes, and any prepared documentation for meetings, calls, teleconferences, or other discussions responsive to our request; voicemails; e-mails; e-mail attachments; talking points; faxes; training documents and guides; tables of contents and contents of binders; documents pertaining to instruction and coordination of couriers; and any other materials. However, you need not produce press clippings and news articles that are unaccompanied by any commentary (e.g., an email forwarding a news article with no additional commentary in the email thread).

We ask that you search for records from all components of the Department that may be reasonably likely to produce responsive results, including but not limited to the Office of the Secretary, Office of the General Counsel, and Office of Public Affairs. We also ask that you search all systems of record, including electronic and paper, in use at your agency, as well as files or emails in the personal custody of your employees, such as personal email accounts, as required by FOIA and to the extent that they are reasonably likely to contain responsive records. The Protect Democracy Project would prefer records in electronic format, saved as PDF documents, and transmitted via email or

CD-ROM.

If you make a determination that any responsive record, or any segment within a record, is exempt from disclosure, we ask that you provide an index of those records at the time you transmit all other responsive records. In the index, please include a description of the record and the reason for exclusion with respect to each individual exempt record or exempt portion of a record, as provided by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). When you deem a portion of a record exempt, we ask that the remainder of the record to be provided, as required by 5 U.S.C. § 552(b).

Given the 20-day statutory deadline, we hope to be as helpful as possible in clarifying or answering questions about our request. Please contact me at FOIA@protectdemocracy.org or (202) 599-0466 if you require any additional information. We appreciate your cooperation, and look forward to hearing from you very soon.

Sincerely,
/s/ Justin Florence
Legal Director
The Protect Democracy Project